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TORRANCE POLICE DEPARTMENT  
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14 UNITED STATES DISTRICT COURT  
15 CENTRAL DISTRICT OF CALIFORNIA

16 ROBERT THOMSON,

17 Plaintiff,

18 vs.

19 TORRANCE POLICE DEPARTMENT  
and THE LOS ANGELES COUNTY  
20 SHERIFFS DEPARTMENT,

21 Defendants.  
22  
23  
24  
25  
26  
27  
28

Case No. CV11-06154 SJO (JCx)

**DEFENDANT TORRANCE POLICE  
DEPARTMENT'S ANSWER TO  
PLAINTIFF'S SECOND AMENDED  
COMPLAINT**

Date Action Filed: July 26, 2011

1 Defendant TORRANCE POLICE DEPARTMENT ("Defendant") hereby  
2 answers the Second Amended Complaint ("Complaint") filed by Plaintiff ROBERT  
3 THOMSON ("Plaintiff") as follows:

4 **PREFATORY STATEMENT**

5 Answering the prefatory statement on page 1 of the Complaint, Defendant  
6 admits that it denied Plaintiff's application under California Penal Code section  
7 12050 for a concealed carry weapon ("CCW") permit. Except as expressly admitted  
8 herein, Defendant denies each and every allegation contained in the prefatory  
9 statement on page 1 of the Complaint both generally and specifically.

10 **FACTUAL BACKGROUND**

11 1. In response to the allegations contained in Paragraph 1, Defendant  
12 admits that Plaintiff applied for a CCW permit from Defendant and was denied a  
13 CCW permit by Defendant on April 5, 2011. Defendant is without sufficient  
14 knowledge or information to form a belief as to the truth of the remaining  
15 allegations contained in said paragraph, and on that basis denies each and every  
16 allegation contained therein.

17 2. In response to the allegations contained in Paragraph 2, Defendant  
18 affirmatively alleges that Plaintiff's allegations regarding his right to carry a  
19 concealed weapon constitute legal conclusions requiring no response, and that  
20 California law regarding the right to carry concealed weapons speaks for itself and  
21 is the best evidence as to its content. Based on those affirmative allegations,  
22 Defendant denies each and every allegation contained therein.

23 3. In response to the allegations contained in Paragraph 3, Defendant is  
24 without sufficient knowledge or information to form a belief as to the truth of the  
25 allegations contained in said paragraph, and on that basis denies each and every  
26 allegation contained therein.

27 4. In response to the allegations contained in Paragraph 4, Defendant is  
28 without sufficient knowledge or information to form a belief as to the truth of the

1 | allegations contained in said paragraph, and on that basis denies each and every  
2 | allegation contained therein.

5. In response to the allegations contained in Paragraph 5, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

7           6.       In response to the allegations contained in Paragraph 6, Defendant is  
8 without sufficient knowledge or information to form a belief as to the truth of the  
9 allegations contained in said paragraph, and on that basis denies each and every  
10 allegation contained therein.

7. In response to the allegations contained in Paragraph 7, Defendant admits that the California Legislature has passed Assembly Bill AB 144. Defendant affirmatively alleges that AB 144 speaks for itself and is the best evidence as to its content. Except as expressly admitted and affirmatively alleged herein, Defendant denies each and every allegation contained in paragraph 7 both generally and specifically.

8. In response to the allegations contained in Paragraph 8, Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

21 PARTIES

9. In response to the allegations contained in Paragraph 9, Defendant admits that Plaintiff is a natural person. Defendant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

10. In response to the allegations contained in Paragraph 10, Defendant affirmatively alleges that the Torrance Police Department is a department of the City

1 of Torrance, which is a Charter City governed as a Council/Manager form of  
 2 government under the laws of the State of California. Except as expressly admitted  
 3 herein, Defendant denies each and every allegation contained in paragraph 10 both  
 4 generally and specifically.

5 11. In response to the allegations contained in Paragraph 11, Defendant is  
 6 without sufficient knowledge or information to form a belief as to the truth of the  
 7 allegations contained in said paragraph, and on that basis denies each and every  
 8 allegation contained therein.

### 9 JURISDICTION & VENUE

10 12. In response to the allegations contained in Paragraph 12, Defendant  
 11 affirmatively alleges that this Court has jurisdiction over this action under 28 U.S.C.  
 12 section 1331 only if this action states a valid claim for relief under 42 U.S.C. section  
 13 1983. Except as expressly affirmatively alleged herein, Defendant denies each and  
 14 every allegation contained in paragraph 12 both generally and specifically.

15 13. In response to the allegations contained in Paragraph 13, Defendant  
 16 admits the allegations contained therein.

### 17 LEGAL BACKGROUND

18 14. In response to the allegations contained in Paragraph 14, Defendant  
 19 denies each and every allegation contained therein both generally and specifically.

20 15. In response to the allegations contained in Paragraph 15, Defendant  
 21 denies each and every allegation contained therein both generally and specifically.

22 16. In response to the allegations contained in Paragraph 16, Defendant  
 23 admits that "the Bill of Rights" is the collective name for the first ten amendments  
 24 of the United States Constitution. Defendant affirmatively alleges that the Bill of  
 25 Rights speaks for itself and is the best evidence as to its content. Except as  
 26 expressly admitted and affirmatively alleged herein, Defendant denies each and  
 27 every allegation contained in paragraph 16 both generally and specifically.

28 17. Defendant admits the allegations of Paragraph 17.

1           18. In response to the allegations contained in Paragraph 18, Defendant  
2 affirmatively alleges that the *District of Columbia v. Heller* opinion speaks for itself  
3 and is the best evidence as to its content. Except as expressly alleged herein,  
4 Defendant denies each and every allegation contained in Paragraph 18 both  
5 generally and specifically.

6           19. In response to the allegations contained in Paragraph 19, Defendant  
7 affirmatively alleges that the *District of Columbia v. Heller* opinion speaks for itself  
8 and is the best evidence as to its content. Except as expressly alleged herein,  
9 Defendant denies each and every allegation contained in paragraph 19 both  
10 generally and specifically.

11           20. In response to the allegations contained in Paragraph 20, Defendant  
12 affirmatively alleges that the *Comite de Jornalero de Redondo Beach v. City of*  
13 *Redondo Beach* case speaks for itself and is the best evidence as to its content.  
14 Except as expressly alleged herein, Defendant denies each and every allegation  
15 contained in paragraph 20 both generally and specifically.

16           21. In response to the allegations contained in Paragraph 21, Defendant  
17 denies each and every allegation contained therein both generally and specifically.

18           22. In response to the allegations contained in Paragraph 22, Defendant  
19 affirmatively alleges that Defendant's good cause policy speaks for itself and is the  
20 best evidence as to its content. Except as expressly alleged herein, Defendant denies  
21 each and every allegation contained in Paragraph 22 both generally and specifically.

22           23. In response to the allegations contained in Paragraph 23, Defendant  
23 affirmatively alleges that Defendant's good cause policy speaks for itself and is the  
24 best evidence as to its content. Except as expressly alleged herein, Defendant denies  
25 each and every allegation contained in Paragraph 23 both generally and specifically.

26           24. In response to the allegations contained in Paragraph 24, Defendant  
27 affirmatively alleges that Defendant's good cause policy speaks for itself and is the  
28 best evidence as to its content. Except as expressly alleged herein, Defendant denies

1 each and every allegation contained in Paragraph 24 both generally and specifically.  
 2 25. In response to the allegations contained in Paragraph 25, Defendant is  
 3 without sufficient knowledge or information to form a belief as to the truth of the  
 4 allegations contained in said paragraph, and on that basis denies each and every  
 5 allegation contained therein both generally and specifically.

### 6 **FIRST CAUSE OF ACTION**

7 26. In response to the allegations contained in Paragraph 26, Defendant  
 8 denies each and every allegation contained therein both generally and specifically.

9 27. In response to the allegations contained in Paragraph 27, Defendant  
 10 denies each and every allegation contained therein both generally and specifically.

11 28. In response to the allegations contained in Paragraph 28, Defendant  
 12 denies each and every allegation contained therein both generally and specifically.

### 13 **AFFIRMATIVE DEFENSES**

#### 14 **FIRST AFFIRMATIVE DEFENSE**

##### 15 **(Failure to State a Claim)**

16 29. The Complaint and its one cause of action asserted therein fails to state  
 17 a claim upon which relief can be granted against Defendant.

#### 18 **SECOND AFFIRMATIVE DEFENSE**

##### 19 **(Failure to Mitigate Damages)**

20 30. The relief sought by Plaintiff is barred to the extent he failed to take all  
 21 necessary steps to mitigate any damages he allegedly suffered.

#### 22 **THIRD AFFIRMATIVE DEFENSE**

##### 23 **(No Constitutional Deprivation—Qualified Immunity)**

24 31. Neither Defendant nor its employees or agents deprived Plaintiff of any  
 25 clearly established constitutional or statutory rights of which Defendant or its  
 26 employees or agents reasonably should have been or could have been aware. As  
 27 such, Defendant is entitled to qualified immunity.

28 /



**FOURTH AFFIRMATIVE DEFENSE**

**(Failure to Sue Proper Party)**

32. The relief sought by Plaintiff is barred to the extent he failed to sue the proper party.

**FIFTH AFFIRMATIVE DEFENSE**

**(Ripeness)**

33. Defendant alleges that Plaintiff is barred from pursuing this action to the extent Plaintiff's claims for relief are barred because they are not ripe for judicial review.

**SIXTH AFFIRMATIVE DEFENSE**

**(Failure to Exhaust Administrative Remedies)**

34. Defendant is informed, believes and thereupon alleges that Plaintiff has failed to exhaust all applicable federal or state administrative remedies.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Lack of Standing)**

35. The Complaint and each and every cause of action pled therein is barred due to the fact that Plaintiff lacks standing to sue Defendant for the claims alleged in the Complaint.

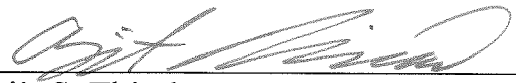
WHEREFORE, Defendant TORRANCE POLICE DEPARTMENT prays for judgment against Plaintiff ROBERT THOMSON as follows:

1. That Plaintiff take nothing by reason of his Complaint;
2. That judgment on the Complaint be entered in favor of Defendant;
3. That Defendant be awarded its costs of suit incurred as a result of this action;
4. That Defendant be awarded its attorneys' fees and litigation expenses as a result of this action; and

1           5.     That the Court award such other and further relief as deemed just and  
2 proper.

3  
4 Dated: December 6, 2011

RUTAN & TUCKER, LLP  
ROBERT S. BOWER  
AJIT S. THIND

5  
6 By:   
7     Ajit S. Thind  
8     Attorneys for Defendant  
9     TORRANCE POLICE  
10    DEPARTMENT